

5946. Misbranding of "Kilmer's Swamp Root." U. S. * * * v. 22 Cases of Swamp Root. Consent decree of condemnation and forfeiture. Product ordered released on bond. (F. & D. No. 8219. I. S. No. 3425-m. S. No. E-838.)

On March 28, 1917, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel, and on June 11, 1917, an amended libel, for the seizure and condemnation of 6 cases, each containing two dozen packages, 10 cases, each containing one dozen packages, and 6 cases, each containing three dozen packages of Kilmer's Swamp Root, consigned by Dr. Kilmer & Co., Binghamton, N. Y., alleging that the article was being transported from the State of New York into the Island of Porto Rico, and charging misbranding in violation of the Food and Drugs Act, as amended.

It was averred in substance in the amended libel that on each package of the article and on the cartons, and printed in the circulars enclosed in the cartons, there appeared in the Spanish, Italian, Portuguese, German, and French languages certain labels and statements, a correct translation of which into the English language was set out in the amended libel. These statements formed the substance of various therapeutic claims for the article.

Misbranding of the article was alleged in the amended libel for the reason that the labels appearing on the article, and the statements contained in a circular accompanying it as to the curative qualities of the said article, were false and fraudulent, that is to say, the said article is not a treatment for a number of acute and chronic disorders of the kidney, liver, bladder, and urinary organs, such as acute nephritis, Bright's disease, pyelitis, pyonephrosis, renal calculi, hydronephrosis, tuberculosis of the kidney and sarcoma of the kidney, cirrhosis of the liver, cancer of the liver, syphilis of the liver, abscess of the liver, biliary calculi, and hydatid cysts; chronic cystitis, tuberculosis of the bladder, vesical calculi, vesical polypi, acute and chronic gonorrhea, urethritis, and stricture; further, that it will not prevent Bright's disease, swelling of the feet, dropsy, pain in the back, joints, bones, and rheumatism; in that in the present state of medical knowledge there can be no preparation placed in one bottle that will be a treatment for erysipelas, herpes, old sores, and ulcers caused by vitiated blood; in that the enumeration on the back panel of a variety of symptoms that may be present in widely differing diseases would necessarily require varied treatments; for example, retention of urine may be due to stricture of the urethra, to enlarged prostate, to a foreign body in the urethra, to paralysis of the bladder due to typhoid fever or other continued fevers, myelitis, hemiplegia, and other nervous affections, and in none of these would this preparation be of any benefit; in that the said preparation will not expel biliary calculi; in that the preparation is worthless as a treatment for hypertrophy of the prostate, genital and seminal debility, and to eliminate malarial infections from the system; in that the preparation will not neutralize many of the causes of nervousness, sleeplessness, headache, neuralgia, and malarial fever; in that the preparation will not purify the blood; in that on page 1 of the booklet, the statement that the preparation promptly relieves pain in the back, kidneys, liver, bladder, and urinary passages is false and fraudulent, in that pain in the structures mentioned may be due to a wide variety of conditions, and of such severity as to require large doses of opiates, and would not be benefited by the said preparation; in that the preparation is not a cure for kidney disease, uric acid, hemorrhage from the kidneys, Bright's disease, urinary disorders, sudden stoppage of the urine, calculi, sand, stone in the bladder, cystitis (inflammation of the bladder), dribbling of urine, straining after urinating, retention of urine, incontinence of urine, impuri-

ties of the blood, bloody or mucous urine, pain in the urethra, pain in the back, backache, catarrh of the bladder or intestines, ulceration of the bladder, pain in the joints or muscles, lumbago, rheumatism, dropsy or swelling of the feet, emaciation, liver trouble, biliary calculi, gastric acidity, hypertrophy of the liver, acidity of the stomach, dyspepsia, cardialgia, pain in the stomach, pain in the breast, lassitude and sleeplessness, grippe (or trancazo), debility, nervousness, in that there is nothing in the article that would make it especially suitable for females.

On June 12, 1917, the said Dr. Kilmer & Co., claimant, filed its answer to the amended libel, consenting to a degree of forfeiture setting forth alleged reasons for consenting.

Acting on the consent contained in the answer, the court, on the 12th day of June, 1917, ordered the entry of a decree of condemnation and forfeiture, and it was ordered that the product should be delivered to said claimant upon payment of the costs of the proceedings and the execution of bond in the sum of \$150, in conformity with section 10 of the act.

C. F. MARVIN, *Acting Secretary of Agriculture.*